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No Penalties for Disclosures, IRS Pledges

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BODY:

The Internal Revenue Service, looking for help in finding promoters of abusive tax shelters that cost the government billions of dollars a year, appealed yesterday to new tipsters: the corporations and individuals who use the shelters.

Under the new policy, taxpayers during the next four months can disclose their use of a shelter and still maintain that it is legitimate and that they are entitled to the tax benefits it provides. "Disclosure creates no inference that the taxpayer's tax treatment of the item was improper or that the accuracy-related penalty would apply," the IRS said.

The taxpayer may still lose on the issue but would owe only the taxes and interest. Penalties for negligence and substantial understatement, which range up to 20 percent, would not be imposed.

The move is a switch for the agency from the stick to the carrot, tax attorneys said.

In the past, the IRS "generally would only waive penalties if the taxpayer conceded the underlying tax liability. If you owe tax and interest, that could be a lot of money to get the penalties to go away," said Richard M. Lipton, of McDermott, Will & Emery in Chicago, chairman of the American Bar Association's tax section.

While the initiative applies to both individuals and corporations, Lipton thinks it will appeal more to business.

"My guess is it will have greater impact on the corporate side because [corporate] tax directors have a great incentive to avoid penalties. Their bosses want them to be appropriately aggressive in tax planning but generally do not want their companies to be subject to penalties. It will allow the in-house tax directors to continue to maintain their position with respect to an aggressive tax strategy while avoiding a penalty," Lipton said.

The penalty relief does not apply to taxpayers involved in fraud, criminal conduct, concealment of a foreign financial account or foreign trust, or the treatment of personal expenses as deductible business expenses, the IRS said.

Those who make disclosures must be willing to provide the promoter's name and address, documents describing the shelter and a signed statement swearing, under penalty of perjury, that the information is accurate, the IRS said.

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Section: Business

IRS Targeting Doubtful Tax Shelters

IRS

The Internal Revenue Service says it will forgo penalties for taxpayers who voluntarily disclose the use of doubtful tax shelters.

The move will give taxpayers until April 23 to reveal the use of questionable tax shelters and the name of the shelter promoter, the agency said in a news release.

The IRS said it will not impose its traditional penalty--20% of the underpaid tax--but will require taxpayers to pay the taxes that should have been paid and the interest on them, the agency said.

The agency said it will use the information gathered under the new rules to target promoters who have not followed requirements to register questionable shelters. The rules also will help the IRS find tax shelters, warn potential clients and teach its own agents how to look for them, it said.

"The IRS believes some taxpayers entered into questionable transactions based on the representations of promoters who marketed these tax shelters," said Larry Langdon, commissioner of the agency's Large and Mid-Size Business Division.

"They now have additional incentive to bring any questionable transactions to the IRS' attention," he said.

The amnesty program doesn't apply to taxpayers involved in fraud, criminal conduct, concealing a foreign account or trust or the treatment of personal expenses as deductible business expenses.

----- INDEX REFERENCES -----

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